

Amendment Under 37 C.F.R. § 1.116
US Appln No. 10/041,668

Attorney Docket No.: Q67887

REMARKS

Applicants thank the Examiner for withdrawing the drawing and claim objections set forth in the March 29, 2004 *Office Action*.

Status of the Application

Claims 1-4, 7-11 and 13-17 are all the claims pending in the Application, as claims 5, 6 and 12 are hereby cancelled without prejudice or disclaimer.¹ Claims 1-4, 7-11 and 13-17 stand rejected.

Claim Objections

The Examiner has objected to claims 13-17 due to a missing claim 12. Missing claim 12 is hereby canceled. Thus, withdrawal of the objection is respectfully requested.

Claim Rejections

The Examiner has rejected: (1) claims 1-3, 7, 9, 16 and 17 under 35 U.S.C. § 102(e) as being anticipated by *Yudasaka* (US 6,373,453; hereinafter “*Yudasaka*”); (2) claims 4, 10, 11, 13 and 14 under 35 U.S.C. § 103(a) as being unpatentable over *Yudasaka*; and (3) claims 8 and 15 under 35 U.S.C. § 103(a) as being unpatentable over *Yudasaka* in view of *Yamazaki et al.* (US 6,420,834; hereinafter “*Yamazaki*”). These rejections are respectfully traversed.

¹ Claims 5 and 6 were not elected in the December 3, 2003 Response to Restriction Requirement. Applicants reserve the right to pursue these claims in a Divisional Application. Claim 12 was missing from the July 29, 2004 Amendment due to a typographical error, and is cancelled herein to correct the claim numbering.

Amendment Under 37 C.F.R. § 1.116
US Appln No. 10/041,668

Attorney Docket No.: Q67887

(1) Yudasaka Fails To Teach Or Suggest The Defined Properties of the Recited "Insulative Mask Supporting Layers"

Applicants respectfully submit that *Yudasaka* fails to teach or suggest that : (I) "said mask supporting layers preventing a metal mask which is used in formation of said organic EL thin film and said cathode thin film, from being in contact with a pixel portion of said transparent substrate," as recited in independent claims 1 and 7.

As discussed in the remarks of the July 29, 2004 Amendment, to the extent that the above portions of claims 1 and 7 could be read as reciting any function, the function defines the necessary size and shape of the "mask supporting layers." In other words, claims 1 and 7 are only reasonably read as reciting: (1) a structure (the "mask supporting layers"); and (2) a size and shape of that structure relative to its purpose of preventing a metal mask from contacting the transparent substrate. Read in totality, the above portion of claims 1 and 7 clearly defines the structure and necessary shape of the "mask supporting layers."

Further, Applicants direct the Examiner to MPEP § 2173.05(g), which specifically indicates that a "functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used." In this case, the language of claims 1 and 7 clearly define a necessary size and shape of the mask supporting layers such that one of ordinary skill would understand the bounds of these claims. Thus, the Examiner must consider the above portions of claims 1 and 7, whether or not they could be considered "functional," and therefore must show that the applied reference discloses such features.

In this regard, *Yudasaka* discloses an active matrix display device where an organic EL film is formed by an ink jet method. A mask for forming an organic EL film is not used in

Amendment Under 37 C.F.R. § 1.116
US Appln No. 10/041,668

Attorney Docket No.: Q67887

Yudasaka. In fact, Yudasaka's "bank layer", which is alleged by the Examiner to have some correspondence to the recited "mask supporting layers," is provided between the opposing electrode (op) and the data line (sig) to suppress formation of parasitic capacitance in the data line (sig) (col. 2, lines 35-41, and Figs. 3A-3B), and has nothing to do with any metal masks. Thus, Yudasaka cannot reasonably be read as disclosing any particular "mask supporting layers" such as those recited in claims 1 and 7.

Additionally, Applicants disagree with the Examiner's new assertion that the above portions of claim 1 are "related to the process of making the final product of the organic EL display, the metal mask being an intermediate product is [sic] not present in the final product" (O.A., last 3 lines on page 3) and are therefore "not afforded patentable weight (see MPEP 2113)" (O.A., line 7 on page 4).

First, the above portions of claims 1 and 7 are not specifically directed to reciting steps of a process of making an organic EL display, and therefore MPEP § 2113 is inapplicable. Rather, the above portions of claims 1 and 7 are, as discussed above, directed to: (1) a structure (the "mask supporting layers"); and (2) a size and shape of that structure relative to its purpose of preventing a metal mask from contacting the transparent substrate. This recitation is quite different from a "product-by-process" claim, which is a product claim that defines the claimed product in terms of the process by which it is made (see MPEP § 2173.05(p)), e.g., claiming a chemical compound by reciting the order various chemicals are added to form the compound.

Second, Applicants respectfully submit that the recited "metal mask" is not an "intermediate product" as the Examiner alleges. Rather, the "metal mask" is an implement used to form the recited films. This is quite different from an "intermediate product," which is a

Amendment Under 37 C.F.R. § 1.116
US Appln No. 10/041,668

Attorney Docket No.: Q67887

product that is changed into the final claimed product during its manufacture, e.g., a chemical compound before a final chemical is added to provide a final chemical compound.

Third, to the extent that the Examiner alleges that no patentable weight should be accorded to the portions of claims 1 and 7 in question, Applicant directs the Examiner to the above citation of MPEP § 2173.05(g), which specifically indicates that a "functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used."

(B) Yudasaka Fails To Teach Or Suggest That The Recited "Insulative Mask Supporting Layers" Are Part Of The Insulating Film

Applicants respectfully submit that *Yudasaka* fails to teach or suggest "a plurality of insulative mask supporting layers constituting a part of or a whole of said first insulating film," as recited in independent claim 1.

Specifically, claim 1 recites that the "first insulating film" is "disposed between adjacent ones of said ITO films." The Examiner alleges that second interlayer insulating film 52 has some correspondence to the "first insulating film." Further, the Examiner alleges that the "banks" of *Yudasaka* have some correspondence to the recited "insulative mask supporting layers."

However, the banks of *Yudasaka* are not part of second interlayer insulating film 52. Rather, they are distinctly shown as being separate from the second interlayer insulating film 52 (see, e.g., FIG. 3(A)). Thus, the banks of *Yudasaka* cannot reasonably be read as "constituting a part of or a whole of" second interlayer insulating film 52.

Amendment Under 37 C.F.R. § 1.116
US Appln No. 10/041,668

Attorney Docket No.: Q67887

Thus, Applicants respectfully submit that independent claim 1 is patentable over the applied references. Further, Applicants respectfully submit that rejected dependent claims 2-4, 7-11 and 13-17 are allowable, *at least* by virtue of their dependency.

Thus, Applicants respectfully request that the Examiner withdraw this rejection.

Conclusion

In view of the foregoing, it is respectfully submitted that claims 1-4, 7-11 and 13-17 are allowable. Thus, it is respectfully submitted that the application now is in condition for allowance with all of the claims 1-4, 7-11 and 13-17.

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Please charge any fees which may be required to maintain the pendency of this application, except for the Issue Fee, to our Deposit Account No. 19-4880.

Respectfully submitted,



Timothy P. Cremin
Registration No. 50,855

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: March 1, 2005